

2018

# Authorizes Bonds to Fund Existing Housing Program for Individuals with Mental Illness. Legislative Statute

Follow this and additional works at: [https://repository.uchastings.edu/ca\\_ballot\\_props](https://repository.uchastings.edu/ca_ballot_props)

---

## Recommended Citation

Authorizes Bonds to Fund Existing Housing Program for Individuals with Mental Illness. Legislative Statute California Proposition 2 (2018).

[https://repository.uchastings.edu/ca\\_ballot\\_props/1368](https://repository.uchastings.edu/ca_ballot_props/1368)

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository.

# AUTHORIZES BONDS TO FUND EXISTING HOUSING PROGRAM FOR INDIVIDUALS WITH MENTAL ILLNESS. LEGISLATIVE STATUTE.

## OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

The text of this measure can be found on the Secretary of State's website at <http://voterguide.sos.ca.gov>.

- Ratifies existing law establishing the No Place Like Home Program, which finances permanent housing for individuals with mental illness who are homeless or at risk for chronic homelessness, as being consistent with the Mental Health Services Act approved by the electorate.
- Ratifies issuance of up to \$2 billion in previously authorized bonds to finance the No Place Like Home Program.
- Amends the Mental Health Services Act to authorize transfers of up to \$140 million annually from the

existing Mental Health Services Fund to the No Place Like Home Program, with no increase in taxes.

### SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Allows the state to use up to \$140 million per year of county mental health funds to repay up to \$2 billion in bonds. These bonds would fund housing for those with mental illness who are homeless.

### FINAL VOTES CAST BY THE LEGISLATURE ON AB 1827 (PROPOSITION 2) (CHAPTER 41, STATUTES OF 2018)

Senate:	Ayes 35	Noes 0
Assembly:	Ayes 72	Noes 1

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

#### ***Counties Provide Mental Health Services.***

Counties are primarily responsible for providing mental health care for persons who lack private coverage. Counties provide psychiatric treatment, counseling, hospitalization, and other mental health services. Some counties also arrange other types of help for those with mental illness—such as housing, substance abuse treatment, and employment services.

***Mental Health Services Act.*** In 2004, California voters approved Proposition 63,

also known as the Mental Health Services Act. The act provides funding for various county mental health services by increasing the income tax paid by those with income above \$1 million. This income tax increase raises \$1.5 billion to \$2.5 billion per year.

***No Place Like Home Program.*** In 2016, the Legislature created the No Place Like Home Program to build and rehabilitate housing for those with mental illness who are homeless or at-risk of becoming homeless. The state plans to pay for this housing by borrowing up to \$2 billion.

**ANALYSIS BY THE LEGISLATIVE ANALYST**

CONTINUED

The state would borrow this money by selling bonds, which would be repaid with interest over about 30 years using revenues from the Mental Health Services Act. This means less funding would be available for other county mental health services. No more than \$140 million of Mental Health Services Act funds could be used for No Place Like Home in any year. The bond payments would be around \$120 million in a typical year.

**Court Approval Needed for No Place Like Home.** Before these bonds can be sold, the state must ask the courts to approve the state’s plan to pay for No Place Like Home. The courts must decide two main issues:

- Whether using Mental Health Services Act dollars to pay for No Place Like Home goes along with what the voters wanted when they approved the Mental Health Services Act.
- Whether voters need to approve the No Place Like Home bonds. (The State Constitution requires voters to approve certain kinds of state borrowing.)

This court decision is pending.

**PROPOSAL**

The measure allows the state to carry out No Place Like Home. In particular, the measure:

- **Approves the Use of Mental Health Services Act Funds for No Place Like Home.** The measure says that Mental Health Services Act funds can be used for No Place Like Home. No more than \$140 million of Mental Health Services

Act funds could be used for No Place Like Home in any year.

- **Authorizes \$2 Billion in Borrowing.** The measure allows the state to sell up to \$2 billion in bonds to pay for No Place Like Home. The bonds would be repaid over many years with Mental Health Services Act funds.

With this measure, the state would no longer need court approval on the issues discussed above to carry out No Place Like Home.

**FISCAL EFFECTS**

**Fiscal Effect Depends on the Court Decision.**

The fiscal effect of the measure depends on whether or not the courts would have approved the state’s plan to pay for No Place Like Home. If the courts would have approved the state’s plan, the measure would have little effect. This is because the state would have gone forward with No Place Like Home in any case. If the courts would have rejected the state’s plan, the state would not have been able to move forward with No Place Like Home. This measure would allow the state to do so.

Visit <http://www.sos.ca.gov/campaign-lobbying/cal-access-resources/measure-contributions/2018-ballot-measure-contribution-totals/> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-18-gen.html> to access the committee’s top 10 contributors.

If you desire a copy of the full text of the state measure, please call the Secretary of State at (800) 345-VOTE (8683) or you can email [vigfeedback@sos.ca.gov](mailto:vigfeedback@sos.ca.gov) and a copy will be mailed at no cost to you.

998.608. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

998.609. (a) As long as any bonds authorized under this article are outstanding, the Secretary of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Secretary of Veterans Affairs, the California Veterans Board, the appropriate policy committees dealing with veterans affairs in the Senate and the Assembly, and the committee.

(b) The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money that the division may have available on deposit with the Treasurer.

998.610. (a) The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.

(b) Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

998.611. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

998.612. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.

998.613. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.

998.614. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by Article XIII B.

## PROPOSITION 2

This law proposed by Assembly Bill 1827 of the 2017–2018 Regular Session (Chapter 41, Statutes of 2018) is submitted to the people in accordance with Section 10 of Article II of the California Constitution.

This proposed law amends and adds sections to the Welfare and Institutions Code; therefore, provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

SECTION 1. The voters hereby find and declare that housing is a key factor for

1

2

stabilization and recovery from mental illness and results in improved outcomes for individuals living with a mental illness. The Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, must therefore be amended to provide for the expenditure of funds from the Mental Health Services Fund to the No Place Like Home Program established pursuant to Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code, which finances the acquisition, design, construction, rehabilitation, or preservation of permanent supportive housing for individuals living with a severe mental illness who are homeless or at risk of chronic homelessness.

SEC. 2. Section 1, this section, and Sections 3 to 7, inclusive, shall be known, and may be cited, as the No Place Like Home Act of 2018.

SEC. 3. Section 5849.35 of the Welfare and Institutions Code is amended to read:

5849.35. (a) The authority may do all of the following:

(1) Consult with the commission and the State Department of Health Care Services concerning the implementation of the No Place Like Home Program, including the review of annual reports provided to the authority by the department pursuant to Section 5849.11.

(2) Enter into one or more *single-year or multiyear* contracts with the department for the department to provide, and the authority to pay the department for providing, services described in Sections 5849.7, 5849.8, and 5849.9, related to permanent supportive housing for the target ~~population~~. *population and to provide for payments to the department from amounts on deposit in the Supportive Housing Program Subaccount created within the Mental Health Services Fund pursuant to paragraph (1) of subdivision (f) of Section 5890.* Before entering into any contract pursuant to this paragraph, the executive director of the authority shall transmit to the commission a copy of the contract in substantially final form. The contract shall be deemed approved by the commission unless it acts within 10 days to disapprove the contract.

(3) On or before June 15 and December 15 of each year, the authority shall certify to the Controller the amounts the authority is required to pay as provided in Section 5890 for the

following six-month period to the department pursuant to any service contract entered into pursuant to paragraph (2).

(b) The department may do all of the following:

(1) Enter into one or more *single-year or multiyear* contracts with the authority to provide services described in Sections 5849.7, 5849.8, and 5849.9, related to permanent supportive housing for the target ~~population~~. *population and to receive payments from amounts on deposit in the Supportive Housing Program Subaccount pursuant to paragraph (1) of subdivision (f) of Section 5890.* Payments received by the department under any service contract authorized by this paragraph shall be used, before any other allocation or distribution, to repay loans from the authority pursuant to Section 15463 of the Government Code.

(2) Enter into one or more loan agreements with the authority as security for the repayment of the revenue bonds issued by the authority pursuant to Section 15463 of the Government Code. The department shall deposit the proceeds of these loans, excluding any refinancing loans to redeem, refund, or retire bonds, into the fund. The department's obligations to make payments under these loan agreements shall be limited obligations payable solely from amounts received pursuant to its service contracts with the authority.

(3) The department may pledge and assign its right to receive all or a portion of the payments under the service contracts entered into pursuant to paragraph (1) directly to the authority or its bond trustee for the payment of principal, premiums, if any, and interest under any loan agreement authorized by paragraph (2).

(c) The Legislature hereby finds and declares both of the following:

(1) The consideration to be paid by the authority to the department for the services provided pursuant to the contracts authorized by paragraph (2) of subdivision (a) and paragraph (1) of subdivision (b) is fair and reasonable and in the public interest.

(2) The service contracts and payments made by the authority to the department pursuant to a service contract authorized by paragraph (2) of subdivision (a) and paragraph (1) of subdivision (b) and the loan agreements and loan repayments made by the department to the

authority pursuant to a loan agreement authorized by paragraph (2) of subdivision (b) shall not constitute a debt or liability, or a pledge of the faith and credit, of the state or any political subdivision. *subdivision, except as approved by the voters at the November 6, 2018, statewide general election.*

(d) The state hereby covenants with the holders from time to time of any bonds issued by the authority pursuant to Section 15463 of the Government Code that it will not alter, amend, or restrict the provisions of this section, *paragraph (1) of subdivision (f) of Section 5890, or subdivision (b) of Section 5891* in any manner adverse to the interests of those bondholders so long as any of those bonds remain outstanding. The authority may include this covenant in the resolution, indenture, or other documents governing the bonds.

(e) Agreements under this section are not subject to, and need not comply with, the requirements of any other law applicable to the execution of those agreements, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code shall not apply to any contract entered into between the authority and the department under this section.

SEC. 4. Section 5849.4 of the Welfare and Institutions Code is amended to read:

5849.4. (a) The No Place Like Home Fund is hereby created within the State Treasury and, notwithstanding Section 13340 of the Government Code, continuously appropriated to the department, the authority, and the Treasurer for the purposes of this part. Accounts and subaccounts may be created within the fund as needed. Up to 5 percent of the amount deposited in the fund may be used for administrative expenses in implementing this part.

(b) There shall be paid into the fund the following:

(1) Any moneys from the receipt of loan proceeds by the department derived from the issuance of bonds by the authority under subdivision (b) of Section 15463 of the Government Code.

(2) *Any appropriation or transfer to the fund from the General Fund or other funds.*

~~(2)~~

(3) Any other federal or state grant, or from any private donation or grant, for the purposes of this part.

~~(3)~~

(4) Any interest payment, loan repayments, or other return of funds.

SEC. 5. Section 5849.15 is added to the Welfare and Institutions Code, to read:

*5849.15. The voters ratify all of the following provisions as being consistent with and in furtherance of Proposition 63, enacted by the voters at the November 2, 2004, statewide general election, and approve all of the following provisions for purposes of Section 1 of Article XVI of the California Constitution:*

(a) *Chapter 43 of the Statutes of 2016, which amended Sections 5830, 5845, 5847, 5848, 5897, and 5899 and added this part.*

(b) *Chapter 322 of the Statutes of 2016, which added Section 15463 to the Government Code, and amended Sections 5849.1, 5849.2, 5849.3, 5849.4, 5849.5, 5849.7, 5849.8, 5849.9, 5849.11, 5849.14, 5890, and 5891 of, added Section 5849.35 to, and repealed and added Section 5849.13 of, this code.*

(c) *Those provisions of Chapter 561 of the Statutes of 2017 that amended any of the provisions referenced in subdivisions (a) and (b).*

(d) *The amendments to Section 5849.35, 5849.4, and 5890 made by the act adding this section.*

(e) *The issuance by the California Health Facilities Financing Authority of bonds in an amount not to exceed two billion dollars (\$2,000,000,000) for the purposes of financing permanent supportive housing pursuant to the No Place Like Home Program and related purposes as set forth in subdivision (b) of Section 15463 of the Government Code, the issuance of bonds for the purpose of redeeming, refunding, or retiring bonds as set forth in subdivision (c) of Section 15463 of the Government Code, and the process by which those bonds are issued, secured, and repaid, as set forth in the provisions referenced in subdivisions (a) to (d), inclusive.*

SEC. 6. Section 5890 of the Welfare and Institutions Code is amended to read:

5890. (a) The Mental Health Services Fund is hereby created in the State Treasury. The fund shall be administered by the state. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are, except as provided in subdivision (d) of Section 5892, continuously appropriated, without regard to fiscal years, for the purpose of funding the following programs and other related activities as designated by other provisions of this division:

(1) Part 3 (commencing with Section 5800), the Adult and Older Adult *Mental Health System of Care Act*.

(2) Part 3.2 (commencing with Section 5830), Innovative Programs.

(3) Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs.

(4) Part 3.9 (commencing with Section 5849.1), No Place Like Home Program.

(5) Part 4 (commencing with Section 5850), the Children's Mental Health Services Act.

(b) The establishment of this fund and any other provisions of the act establishing it or the programs funded shall not be construed to modify the obligation of health care service plans and disability insurance policies to provide coverage for mental health services, including those services required under Section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code, related to mental health parity. This act shall not be construed to modify the oversight duties of the Department of Managed Health Care or the duties of the Department of Insurance with respect to enforcing these obligations of plans and insurance policies.

(c) This act shall not be construed to modify or reduce the existing authority or responsibility of the State Department of Health Care Services.

(d) The State Department of Health Care Services shall seek approval of all applicable federal Medicaid approvals to maximize the availability of federal funds and eligibility of participating children, adults, and seniors for medically necessary care.

(e) Share of costs for services pursuant to Part 3 (commencing with Section 5800) and Part 4

(commencing with Section 5850) of this division, shall be determined in accordance with the Uniform Method of Determining Ability to Pay applicable to other publicly funded mental health services, unless this Uniform Method is replaced by another method of determining copayments, in which case the new method applicable to other mental health services shall be applicable to services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division.

(f) (1) The Supportive Housing Program Subaccount is hereby created in the Mental Health Services Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the subaccount are reserved and continuously appropriated, without regard to fiscal years, to the California Health Facilities Financing Authority to provide funds to meet its financial obligations pursuant to any service contracts entered into pursuant to Section 5849.35. Notwithstanding any other law, including any other provision of this section, no later than the last day of each month, the Controller shall, before any transfer or expenditure from the fund for any other purpose for the following month, transfer from the Mental Health Services Fund to the Supportive Housing Program Subaccount an amount that has been certified by the California Health Facilities Financing Authority pursuant to paragraph (3) of subdivision (a) of Section 5849.35, but not to exceed an aggregate amount of one hundred forty million dollars (\$140,000,000) per year. If in any month the amounts in the Mental Health Services Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount certified by the California Health Facilities Financing Authority, the shortfall shall be carried over to the next ~~month~~. *month, to be transferred by the Controller with any transfer required by the preceding sentence.* Moneys in the Supportive Housing Program Subaccount shall not be loaned to the General Fund pursuant to Section 16310 or 16381 of the Government Code.

(2) *Prior to the issuance of any bonds pursuant to Section 15463 of the Government Code, the Legislature may appropriate for transfer funds in the Mental Health Services Fund to the Supportive Housing Program Subaccount in an*

*amount up to one hundred forty million dollars (\$140,000,000) per year. Any amount appropriated for transfer pursuant to this paragraph and deposited in the No Place Like Home Fund shall reduce the authorized but unissued amount of bonds that the California Health Facilities Financing Authority may issue pursuant to Section 15463 of the Government Code by a corresponding amount. Notwithstanding Section 13340 of the Government Code, all moneys in the subaccount transferred pursuant to this paragraph are reserved and continuously appropriated, without regard to fiscal years, for transfer to the No Place Like Home Fund, to be used for purposes of Part 3.9 (commencing with Section 5849.1). The Controller shall, before any transfer or expenditure from the fund for any other purpose for the following month but after any transfer from the fund for purposes of paragraph (1), transfer moneys appropriated from the Mental Health Services Fund to the subaccount pursuant to this paragraph in equal amounts over the following 12-month period, beginning no later than 90 days after the effective date of the appropriation by the Legislature. If in any month the amounts in the Mental Health Services Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount appropriated for transfer pursuant to this paragraph, the shortfall shall be carried over to the next month.*

*(3) The sum of any transfers described in paragraphs (1) and (2) shall not exceed an aggregate of one hundred forty million dollars (\$140,000,000) per year.*

*(4) Paragraph (2) shall become inoperative once any bonds authorized pursuant to Section 15463 of the Government Code are issued.*

SEC. 7. The provisions of this act may be amended by a two-thirds vote of the Legislature so long as such amendments are consistent with and further the intent of this act.

## PROPOSITION 3

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Fish and Game Code and the Water Code; therefore,

new provisions proposed to be added are printed in *italic type* to indicate that they are new.

## PROPOSED LAW

The people of the State of California do enact as follows:

SECTION 1. Division 38 (commencing with Section 86000) is added to the Water Code, to read:

### *DIVISION 38. STATE WATER SUPPLY INFRASTRUCTURE, WATER CONVEYANCE, ECOSYSTEM AND WATERSHED PROTECTION AND RESTORATION, AND DRINKING WATER PROTECTION ACT OF 2018*

#### *CHAPTER 1. SHORT TITLE*

*86000. This division shall be known and may be cited as the Water Supply and Water Quality Act of 2018.*

#### *CHAPTER 2. FINDINGS AND DECLARATIONS*

*86001. The people find and declare the following:*

*(a) In our frequently very dry state, our high-tech, agricultural and urbanized economy relies on an uninterrupted and high-quality water supply. By making water use more efficient, reducing the demand for water, providing new and diverse water supplies, improving the quality of our source watersheds, and protecting key environmental uses of water, this measure will assure that the economic and environmental engines of California are not derailed by a shortage of water.*

*(b) California's recent historic drought raises serious questions about the long-term reliability of our current water supplies. The drought underscores the need to use our existing water supplies more efficiently, increase investments in our water infrastructure, and more effectively integrate our water system from the headwaters to the end user.*

*(c) California's water situation requires implementation of the California Water Action Plan to provide for the water needs of people, agriculture, and the environment. This division will help provide a more reliable water supply by reducing waste, increasing the amount of water available to meet our needs, and improving water quality. This division also provides additional protection for our communities from floods.*

2

3